

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARLOS B. HAIRSTON JR.,

Plaintiff,

-against-

ANTHONY ANNUCCI; PAUL CHAPPIUS,

Defendants.

**STIPULATION AND
ORDER**

16-CV-1355

LEK/ATB

9:16-cv-01355-LEK-ATB

WHEREAS, Plaintiff Carlos B. Hairston commenced the instant lawsuit on November 14, 2016 (Dkt. No. 1), alleging that certain policies created by the New York State Department of Corrections and Community Supervision (“DOCCS”) and implemented by Defendants Anthony Annucci, Acting Commissioner, DOCCS, and Paul Chappius, Superintendent, Elmira Correctional Facility, restrict Plaintiff from wearing a religious garment called a Talit Katan, or “tzitzit,” with its fringes displayed outside of his prison uniform;

WHEREAS, Plaintiff moved for preliminary injunctive relief on July 12, 2017 (the “Motion”) (Dkt. No. 23);

WHEREAS, no findings of fact or conclusions of law were made with respect to the Motion;

WHEREAS, the parties entered into a stipulation to settle the Motion, which was so-ordered by this Court on April 11, 2018;

WHEREAS, the parties now wish to enter into a stipulation to settle this lawsuit to avoid further litigation; and

WHEREAS, no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of this action, Plaintiff hereby discontinues this action upon the following terms and conditions, with prejudice, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, as to all claims and causes of action, and without damages, costs, interest or attorneys' fees, and

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. This action is discontinued with prejudice in consideration of the following:
 - (a) Defendants and DOCCS shall permit Plaintiff to wear his Talit Katan, or "tzitzit," with its fringes displayed outside of his prison uniform except under the following circumstances (the "Exemption"), in order to ensure the safe and secure operation of the correctional facility where Plaintiff is housed:
 - (i) during transfers of Plaintiff, if such transfers require Plaintiff to be handcuffed or shackled; and
 - (ii) during Plaintiff's participation in facility programming, if such programming requires Plaintiff to use machinery or equipment in which the fringes of his Talit Katan, or "tzitzit," may become caught or tangled (e.g., paper shredders or gym equipment).
 - (b) The Exemption shall remain in place permanently without expiration, unless Plaintiff is found guilty of a disciplinary infraction involving his use of a tzitzit in a manner other than that which is intended by the Exemption, and the Exemption shall be applicable at any correctional facility in which Plaintiff is housed within DOCCS. If, at any time, Plaintiff's permission to wear the tzitzit is

rescinded due to a guilty finding as described above, Plaintiff may reapply for such permission after the conclusion of any disciplinary sanction.

2. This stipulation is solely for the purpose of settlement of this action.

3. The parties agree that no provision of this stipulation shall be interpreted to be an acknowledgment of the validity of any of the allegations or claims that have been made in this action.

4. This stipulation does not constitute a determination of or admission by any party to any underlying allegations, facts or merits of the parties' respective positions. This stipulation shall not be given effect beyond the specific provisions stipulated to herein.

5. This settlement does not form and shall not be claimed as any precedent for, or an agreement by the parties to, any generally applicable policy or procedure in the future.

6. The foregoing constitutes the entire agreement between the parties.

Dated: Elmira, New York
July 26, 2018


Carlos B. Hairston, DIN 14-A-4273
Plaintiff

Dated: Albany, New York
~~July~~ 7, 2018

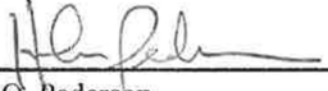
August

DEILY & GLASTETTER, LLP
Attorney for Plaintiff
8 Southwoods Blvd., Suite 207
Albany, New York 12211
Telephone: 518-436-0344, ext. 4964
Fax: 518-436-8273

By: 
Jason Little, Partner

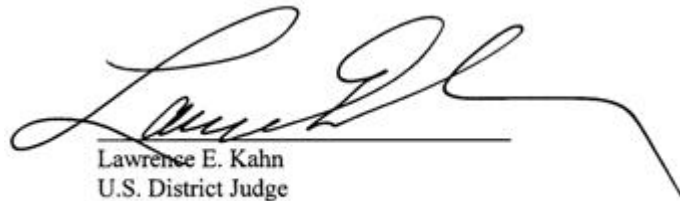
Dated: Albany, New York
July 23, 2018

BARBARA D. UNDERWOOD
Attorney General of the State of New York
Attorney for Defendants
The Capitol
Albany, New York 12224-0341

By: 
Helena O. Pederson
Assistant Attorney General, of Counsel
Bar Roll No. 520491
Telephone: 518-776-2596
Fax: 518-915-7738 (Not for service of papers.)
Email: helena.pederson@ag.ny.gov

Dated: Albany, New York
August 09, 2018

SO ORDERED:


Lawrence E. Kahn
U.S. District Judge